

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BRYAN ANGLE, <div style="text-align: center;">Plaintiff,</div> <div style="text-align: center;">v.</div> SECRETARY LITTLE, et al., <div style="text-align: center;">Defendants.</div>)))))))	C.A. No. 22-1772 Pittsburgh District Judge Susan Paradise Baxter Magistrate Judge Richard A. Lanzillo
--	---------------------------------	--

MEMORANDUM ORDER

Plaintiff, an inmate incarcerated at the State Correctional Institution at Fayette (“SCI-Fayette”) originally commenced this *pro se* civil rights action by filing a complaint in the Court of Common Pleas of Fayette County, Pennsylvania, on November 16, 2022, against Secretary of the Pennsylvania Department of Corrections George Little, SCI-Fayette Superintendent Armel, and several staff members at SCI-Fayette, including, *inter alia*, Sgt. Dobish (“Dobish”) and C.O. Shaw (“Shaw”) [ECF No. 1-1]. The case was subsequently removed to this Court by Notice of Removal dated December 9, 2022 [ECF No. 1], and was referred to United States Magistrate Judge Richard A. Lanzillo for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. §636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

On January 3, 2023, Plaintiff filed a motion for emergency injunction/TRO [ECF No. 4], alleging that he has been subjected to a “continuing campaign of harassment” by Defendants Dobish and Shaw, specifically referencing events that took place on May 31, 2022, August 15, 2022, and November 17-18, 2022. As relief, Plaintiff seeks an order that he “be held in a safer environment until he is finished [with] his sentence on 4-11-23” and “that all retaliation be rectified.” (*Id.* at p. 2).

On January 10, 2023, Judge Lanzillo issued a Report and Recommendation (“R&R”) recommending that Plaintiff’s motion for injunctive relief be denied because the “events alleged in the motion are later in time and largely untethered to the unverified allegations of the complaint,” and also fail to demonstrate an imminent risk of irreparable harm [ECF No. 6].


Plaintiff filed timely objections to the R&R on January 26, 2023, in which he raises new allegations of being continually held in an “unheated, unventilated cell” and enduring “everyday harassment” in the form of denial of exercise, grooming, and showers” [ECF No. 7]; however, these allegations were never presented to the Magistrate Judge in the first instance and have been raised for the first time here, on objection. Thus, they are deemed waived and will not be considered here. See A.G. Cullen Const., Inc. v. Travelers Cas. and Sur. Co. of America, 2010 WL 1992559, at *2 (W.D. Pa. May 17, 2010), quoting Ingraham v. Liberty Mut. Ins. Co., 2008 WL 2812141 (W.D. Pa. July 21, 2008) (“Generally, arguments raised for the first time in objections to a Magistrate Judge’s ruling are deemed waived”). See also Murr v. U.S., 200 F.3d 895, 902 n.1 (6th Cir. 2000) (collecting cases and noting that “absent compelling reasons, [the Magistrate Judge Act] does not allow parties to raise at the district court stage new arguments or issues that were not presented to the magistrate”).

After *de novo* review of Plaintiff’s motions and other documents in the case, together with the report and recommendation and objections thereto, the following order is entered:

AND NOW, this 8th day of February, 2023;

IT IS HEREBY ORDERED that Plaintiff’s motion for emergency injunction/TRO [ECF No. 4] is DENIED. The report and recommendation of Magistrate Judge Lanzillo, issued

January 10, 2023 [ECF No. 6], is adopted as the opinion of the court.


SUSAN PARADISE BAXTER
United States District Judge

cc: The Honorable Richard A. Lanzillo
United States Magistrate Judge